THE RAILROAD SITUATION: AN APPRAISAL

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This discussion is predicated upon the assumption that private ownership and operation of railways is the established policy for some time to come. It was no mere chance that private operation was resumed after two years of government management. Congress responded to an unmistakable popular mandate. Whatever the ultimate solution of this question may be, it is evident that the majority of the people are not yet ready to assume the entire responsibility for our transportation service. Many students of the situation, including some railway executives, have expressed the belief that private operation under government regulation is to have its final test at this time, and that if this test fails the country will take the plunge into government ownership. Certain it is that Congress has equipped the federal regulating body with every conceivable power necessary to ensure that the test shall be a thorough one.

It is the purpose of this paper to appraise the present situation, and if possible to throw some light upon the future, if only for a little way ahead. That such a task is not a simple one will be evident if it is recalled that although the roads went back to their owners on March 1, they remained under the protection of the government guarantee for six months thereafter. The new and increased rates prescribed by the Commission were not effective until August 26. Complete reports of operations are not available until six weeks after the close of the month reported, and traffic figures are slower still. Furthermore, any efforts to reach a final judgment are likely to be frustrated by the sudden shifts in the general industrial situation associated with the present deflation process. It is obvious therefore that we are too completely involved in the period of transition to reach any final conclusions.

For an intelligent appreciation of the present situation, one must go back to the Transportation Act of 1920 under which the roads were restored to their owners. This Act, in addition to prescribing the details connected with the restoration process, contained many provisions designed to strengthen the regulating features of the Interstate Commerce Act, some of which are altogether novel, some of which have been urged upon Congress for many years. No detailed analysis of this statute is practicable or necessary, but it is of importance to set forth the significance of the Act from the standpoint of our regulation policy, now in operation for a third of a century.

The most significant feature of this legislation is the altered relationship of the Commission to the service of transportation. Created

to prevent discrimination and ensure reasonable rates, the Commission established itself at the beginning as the guardian of the shipper against railway abuse. As time went on, its attitude became more judicial, but it never departed far from the theory that its function was to adjudicate the reasonableness and fairness of particular rates. Occasionally when large territories were involved, it did consider whether or not the rates under discussion were sufficient to yield an adequate return, but in taking this position it often met with vigorous opposition within its own membership.

Congress has now awakened to the importance of adequate transportation, and has given the Commission a mandate to see that the necessary service is provided. It has declared that the Commission shall so fix rates not merely that they will be just and reasonable, but that they will, under efficient management and with reasonable expenditures for maintenance, earn a fair return upon the value of the property used in the service of transportation; and that in determining what constitutes a fair return the Commission shall give due consideration to the transportation needs of the country, and the necessity under efficient management of enlarging facilities to provide the people with adequate transportation. By this mandate, the Commission is transformed from a negative judicial body into a positive constructive force for the promotion of the public welfare. It is responsible to the railways for their net earnings; it is responsible to the public for an efficient and progressive railway service.

A second significant feature of the Act is found in the provision relating to the disposition of earnings above that rate which gives a fair return. Whether Congress has the power to dictate to a carrier the disposition of its earnings when they exceed a certain per cent and to recapture a portion of them for general public purposes, is a question that the courts will doubtless be called upon to settle. But the legislation as it stands is profoundly significant. All earnings beyond a reasonable return upon its investment are held by the carrier as a trustee, and half of the excess must be surrendered to the government to be employed in the interest of transportation service as a whole. Furthermore the expenditure of the remaining 50 per cent of the excess is only to a degree at the discretion of the carrier. To be sure, the plan was devised for the purpose of solving the difficult problem of prescribing rates for parallel and competing railways whose financial condition was unlike, but it goes farther than the effect of a mere device. It touches the heart of the whole railway problem. In combination with other clauses of the Act, it goes far to rob the railways of any semblance of private character, and puts them in the class of public servants. Congress has declared what in the first two years is to consti-

tute a fair return upon the carriers' property, leaving the matter thereafter to the judgment of the Commission. The aggregate possible earnings that can be retained and freely used by the individual railway are by this provision narrowly circumscribed. Moreover, when we take into account also that the law imposes upon the Commission supervision of the honesty and economy of management and the reasonableness of the maintenance expenditures, that the Commission is given control over security issues and the disposition of the proceeds, that it must approve any new construction, and that no agreement for pooling or lease or consolidation is effective without its authority, we realize that the door has closed forever upon the private speculative period of railway finance. A public service the railway has always been in the eyes of the court. It is now actually to become so in the hands of its owners.

In the third place, the power granted to the Interstate Commerce Commission to fix the earnings of interstate carriers bids fair under this new legislation to become exclusive. A long step has been taken in the direction of obliterating state lines. State regulation of steam railways, except so far as it has been confined to police supervision, has been frequently pestiferous, conflicting, and obstructive; and it is doubtful whether on the whole there has been a net advantage for the public. The new legislation recognizes the unsatisfactory results of divided authority. Throughout the Act the supremacy of the federal power manifests itself again and again. Federal regulation of security issues and federal approval of consolidation plans are both to be final, notwithstanding the law or order of any state; and state authorities must fain be content with invitations to attend the hearings. In the specific matter of rate making, the new legislation enacted the decision of the Supreme Court in the Shreveport case, granting to the Commission the power to remove any unreasonable preference or advantage or unjust discrimination arising between intrastate and interstate commerce. Many states declined to put into effect in their entirety the rates established by the Commission last August. Among them was the State of New York, which refused to sanction increases in passenger, sleeping car, baggage, and milk rates so far as they applied to intrastate traffic. The railways appealed to the Commission under the discrimination clause just described, and the Commission's decision, rendered about a month ago, which sustains the railways and orders the increases into effect, discloses a striking advance in federal encroachment beyond the position taken in the Shreveport case. In the latter case, the discrimination that the Commission forbade arose on a single railway which, under orders from the Texas Railroad Commission, charged less for an intrastate haul than it charged for an interstate haul for the same distance under rates prescribed by the Interstate Commerce Commis-

sion. The carrier was in the position of attempting to serve two masters. The interference by the state commission with the federal authority was direct. In the case just decided in New York there is no such direct interference. To be sure, there are many instances cited where the intrastate rate is lower than the interstate rate of a competitor for the same distance,—for example, in the passenger fare by different routes between New York and Buffalo,—but they apparently exercise only a minor influence upon the final decision. The carriers had offered no evidence before the New York Commission that such discriminations against interstate commerce prevailed, and the New York authorities had denied their application for an increase in rates solely on the ground of lack of evidence. Yet the Interstate Commerce Commission sustained the carriers and it did so primarily upon the ground of public policy. Congress had instructed the Commission so to increase rates as to enable the roads in each rate territory to earn 6 per cent upon the value of their property. The refusal of the State of New York to apply these increases in full to intrastate business deprived the roads in this district of $12,000,000 annually, and to that extent defeated the declared purpose of Congress. To quote from the decision in the Illinois case, rendered at the same time, "It was stated on argument that about thirty-one states had permitted the same increases in fares as we fixed in 'Increased Rates 1920.' Are the transportation facilities of these states and of the nation to be put in jeopardy by reason of the failure of the other states to conform to the plan adopted by the Congress for the welfare of the nation as a whole?"

As pointed out by Commissioner Eastman in his dissent, the effect of this decision is that whenever an increase in interstate rates on a comprehensive scale is made, a corresponding increase must be granted in intrastate rates, if discrimination against interstate commerce is to be avoided, and application by the carriers to the state commissions for authority to increase becomes only a matter of courtesy. The courts will have to pass upon this latest encroachment upon state prerogatives. If anything can be predicted from the tone of the court in recent decisions of this character, and from the entire spirit of this Act of 1920, the will of Congress and the federal power will be sustained, and we shall have well-nigh reached that goal which a sound regulating policy has long demanded—exclusive federal regulation of a federal public service.

Turning now to an examination of the railway system itself, what are the outstanding problems that the various managements are facing today? The first of these is financial. Has the Congress provided with sufficient liberality for the needs of the carriers? Are their earn-

ings now to be ample, and will they be able to obtain the credit essential for expansion?

If one were to form a judgment based entirely on the rate of return allowed, one would conclude that Congress has not been overgenerous in its treatment. A policy that allows the carriers a maximum of 6 per cent on their investment before dividing with the government, when the corporations must pay 7 per cent to 7½ per cent in the open market for new capital, and when, be it particularly noted, the government is charging the roads 6 per cent for loans, cannot be credited off-hand with extraordinary liberality.

The interest rate of 7 to 7½ per cent which railways in good standing are now compelled to pay for capital, is to be compared with a rate in 1914 of 4.36 per cent as estimated by Professor Kemmerer. Had the price paid for transportation risen proportionately, this increased interest rate would have been no burden, but everyone knows that it has not done so, and the money borrowed today buys not more than 40 to 50 per cent of what it bought in 1914. Moreover, the roads are compelled to borrow capital measured in dollars that are just now beginning with the fall of prices to increase in purchasing power. They are facing the necessity of continuing to pay high interest rates after the market rates have fallen, and of paying off the loan in dollars that have a purchasing power far in excess of the dollars they borrowed. This factor should deter them from contracting debt of long duration, if they must incur debt at all.

That the capital needs of the railways are acute is obvious, for the phenomenon of deferred investment is a familiar one in many fields. Miles of line constructed from 1914 to 1919 were less than in any five years since the Civil War. Since 1915 the additions to equipment have scarcely been sufficient to cover the requirements of a sound retirement policy. Capital needs in many other directions, such as yards and terminals, side and passing tracks, signal installations, and the like, will call for enormous sums in the not distant future. However, expansion of plant on any comprehensive scale is not likely to take place until there is a radical readjustment of credit conditions. Expenditure will be confined to what is absolutely essential for the movement of traffic. However, during the next three years more than $500,000,000 of maturities must be met. There is likely to be some fall in the interest rate, but how soon and how extensive and how rapid can only be surmised.

Whether the Act has created among investors the confidence needed to obtain capital cannot be determined until the effect of recent rate increases is more clearly in evidence. Congress provided that the railways in such rate territories as the Commission should prescribe should

earn a return until March 1, 1922, of 5½ per cent upon the fair value of their property, with ½ of 1 per cent additional at the discretion of the Commission, to be used for additions and betterments. The Commission has divided the country into four rate territories, the two in the East and South corresponding to the old classification territories, the western section being subdivided by breaking off a Mountain-Pacific group west of Colorado. As a basis for the determination of fair value of railway property, the Commission was instructed to utilize the results of its physical valuation so far as they were available, and to give to the property investment account of the carriers "only that consideration which under the law it is entitled to in establishing values for rate-making purposes." The carriers contended for the acceptance of the property investment accounts in their entirety, on the ground that such evidence as was available from completed valuations and those under way demonstrated that the fair value was actually in excess of the aggregate of the property investment. Doubtless the haste with which a decision had to be reached prevented the Commission from entering upon any elaborate investigation of this contention. At any rate, they give no explanation of the figure adopted by them as a fair valuation, beyond the statement that they have considered all the matters of record and the facts available. The book values claimed by the carriers as the proper basis amounted to about $20,000,000,000. The Commission fixed a value of $18,900,000,000, which reduced the claim of the eastern carriers by about 2½ per cent, the southern and western by over 8 per cent. To the eastern district the full 40 per cent increase in freight rates asked for was granted. The South requested 39 per cent and received 25 per cent. The West wanted 32 per cent and was given 35 per cent for the eastern half and 25 per cent for the western. Increases were also granted in passenger and Pullman fares. Will these increased rates produce the results required by law?

September was the first month under the new rates, and the first in which the roads were free from the governmental apron strings. The results were not satisfactory. They may be appreciated by comparing the actual figures with what would have been a normal result for the month of September during the three "test" years of 1915 to 1917. Computing the earnings to be derived by applying the statutory 6 per cent to the "fair value" fixed by the Commission, and dividing this aggregate among the months of the year in conformity with a normal seasonal distribution, Class I roads (those having $1,000,000 or more of annual operating revenues) should show for September a net operating income of nearly $110,000,000. The net for the month was actually $75,300,000. The biggest shortage was in the eastern district, where it amounted to over 50 per cent. Of course September of

this year was not a normal month. The wage increases granted to railway labor in July made retroactive to May 1, and amounting to an annual increase of $625,000,000, were an important factor; maintenance charges were heavy; much expected revenue was withheld through the refusal of the state regulating authorities to sanction all the increases made by the Interstate Commerce Commission. October will probably show a net operating income of approximately $40,000,000 less than is necessary to provide the 6 per cent required by law.

Moreover, net earnings are further threatened by the falling off in traffic. Part of this decline is seasonal and, so far as it is due to other causes, it may be short-lived. But it raises very definitely the question whether net earnings can be sustained and possibly enhanced by reductions in operating expense. It will therefore be enlightening to consider the elasticity of the main expense items.

There has been some fall in wholesale prices, but this has been largely confined to foodstuffs, clothing, and the like, and has not influenced materially the commodities that the railways buy in quantity. Coal contracts have largely been made, and a fall in prices cannot benefit the roads in the immediate future. As for labor, the item that constitutes over 60 per cent of the total railway expenditure, there is opportunity for economy only in increased efficiency or in the discharge of men, not in a lowering of wages. The recent increase in wages granted by the Railway Labor Board has been in effect scarcely six months, and it is idle to discuss actual decreases in wages for many months to come. As for the discharge of men, this can of course be done as traffic declines, (it has been done actually to some extent in the shops), but it is not at all likely that the saving through laying off labor can keep pace with the loss in earnings through decline in traffic. The only other source of labor saving is in greater labor efficiency. The morale of the men so seriously impaired during federal operation, is being gradually restored. The reintroduction of piece-work in the shops is strongly urged by the managers as an incentive to greater efficiency, but there is little probability of any immediate restoration of this method of wage payment.

So far as general operating efficiency is concerned, there is evident a serious purpose on the part of management and men to raise this to the highest possible standard. Faced by the necessity of making one locomotive or one car run when two ran before, they have inaugurated the drive for a load of thirty tons per car and a haul of thirty miles per day, and the reduction of unserviceable equipment to the lowest possible figure by a speeding up of repairs. The campaign has shown some gratifying results, but the results are not as significant as the public has been led to believe. The statistical comparisons are with

the month of February, the last month of federal operation. But the period from February to September shows the same kind of improvement in speed and loading in both years of government operation. It is more or less a seasonal phenomenon. Moreover, whatever results have been accomplished have had the aid of the shipper, and it is not at all unlikely that the shipper may weary in his well-doing if the equipment situation eases up.

However, this move on the part of the railways is encouraging, because the fundamental trouble in the equipment situation is not lack of equipment, but uneconomical handling. A careful analysis of the typical trip of a railway car reveals the astonishing fact that it is in motion on the road only about 10 per cent of the time. For over 20 per cent of the total trip it is held by the shipper, and for over 60 per cent of the time it is moving to or from loading tracks, passing through intermediate yards, making interchanges, or lying on the repair tracks. There is here much slack that should be taken up. Compulsory imposition of heavy demurrage and of increase in the minimum car-load, restriction of such privileges as reconsignment and free time, greater standardization in inspection and repair of equipment have all been advocated. Another and perhaps the greatest opportunity for increasing efficiency lies in the power situation. The railroads' power today costs about $2,000,000,000 per year, of which $650,000,000 is locomotive fuel. Every expert insists that the possibilities of economies in fuel saving and in more economical operation of locomotives are enormous, and are not realized as they should be even by railway men themselves.

Again, economies are possible on a large scale through the greater development of the principle of coöperation among railways. This war policy should be seized upon by the carriers and made their own. That the application of this principle by the government brought with it certain disadvantages under which railways as they recover their individuality are now suffering, may well be true, but the charge is rather against the necessary ruthlessness of war operation than against the fundamental principle of coöperation. And it is insisted here that if the railways are to satisfy the public and are to preserve their private character, they must take far more active steps than they have ever done in the past to promote this principle.

Much more might be done than at present in developing greater cooperation in the construction and operation of interchange and classification yards. It is an admitted fact in railway operation that the classification yard constitutes a most serious obstruction to rapid and efficient movement, that just to the degree that trains can be made up and run through to destination without break is the ideal of operating

efficiency attained. Yet at present the construction of classification yards is almost wholly a problem of the individual railway. In the new law the Commission is given power to require joint use of terminal facilities. The next step should be the coöperative construction and maintenance of classification yards by contiguous railways, in order to further to as great a degree as possible unbroken transit from origin to destination.

A more far-reaching plan for coöperation is involved in the consolidation movement. Under the new legislation the Commission is instructed to prepare and adopt a plan for the consolidation of the railways into a limited number of systems, which shall preserve competition and so far as possible existing channels of trade. The carriers will be permitted to consolidate under supervision of the Commission and in conformity with the Commission's scheme. This legislation doubtless had two motives: first, to take care of the financially weak road by making possible its absorption by a stronger rival; and, second, to promote coöperation in the use of plant and facilities by a more radical and thoroughgoing and definitive process than that of temporary agreement. The Commission's portion of the task is already under way in the hands of experts. However, unless Congress makes the plan compulsory, it is not likely to reach the practical stage for some time to come.

A final consideration in connection with the probability of reducing operating expenses is the present condition of maintenance. The federal administration always stoutly insisted that it was keeping up maintenance, and claimed at the end that it had complied with its contract and returned the roads to their owners in substantially as good condition as when received. With this position the railways have taken emphatic issue, and are preparing to submit to the government their claims for reimbursement. A comparison of maintenance expenditures by the railways during the three years previous to federal control with the period of government operation may throw some light upon the question. The average expenditure for maintenance of way during the three years 1915 to 1917 was 11.99 per cent of gross earnings and for maintenance of equipment 16.72 per cent. The corresponding percentages for the period of federal control were 14.11 per cent and 23.37 per cent. That is, expenditure for maintenance of way absorbed annually during federal operation 2.12 per cent more of gross earnings than the average of the previous three years, and maintenance of equipment absorbed 6.65 per cent more, and the gross earnings of the federal period were larger. But the weakness in this comparison lies in the fact that what is required by the contract is not an equivalent expenditure of funds, but the maintenance of service units. The period of fed-

eral operation was a period of constantly increasing prices and the question is simply whether the increased amount of expenditure for maintenance, measured in dollars, kept pace with the decline in the value of the dollar itself, or in other words with the increase in prices. The increase in prices during this period amounted to over 50 per cent, which means that the appropriations for maintenance would go less than half as far at the end of the period as at the beginning. Even assuming that the government had expended as much during its administration equated for advances in wages and material as was spent during the test period, which was not the case, there would still be the factor of diminished labor efficiency which would operate as a debit against the government.

There is then the large factor of deferred maintenance to be taken care of, and increased rather than diminished expenditures must be looked for for some time to come. Transportation should be ready for the traffic when it arrives, and nothing but a prolonged depression would warrant curtailment of this form of expense. Reintroduction of piece-work would reduce maintenance costs in respect to repair of equipment. If a restoration of this method of wage-payment proves impossible, it may well be that efficient management will require that this work be done by contract.

What conclusions may then be drawn from this discussion of the revenue and expense situation? In the first place, while the rates prescribed do not seem at first sight to give much play for decline in traffic, and while there is little opportunity for immediate relief from declining gross earnings through a shrinkage of expenses, the situation is not as gloomy as it appears on the surface. The valuation employed by the Commission as a basis for rates was nearly a billion and a half of dollars in excess of the par value of outstanding stocks and bonds, and the railways believe that the final valuation will be even higher. The Commission granted in almost their entirety the rate increases asked for by the roads, and these increases were figured to cover expenses estimated at the peak of the period of high prices, and to bring in a revenue based upon a traffic which at the time was subnormal. Unless we enter upon a period of general depression, there should be within a few months a gratifying showing in gross earnings. While expenses cannot be immediately reduced, the opportunities for economics through more scientific operation lie before the railways. Until they have taken advantage of these opportunities to the full they cannot in reason ask for further increases in rates.

A word in conclusion concerning the labor situation. There is no doubt whatever that the war period produced a distinct decline in the morale of the working force, from the standpoint of its efficiency as

an organized unit on the individual railway. This has no reference to the dilution of labor due to war's demands, but rather to the attitude of labor towards its executive officers. This decline had begun before the war, with the passage of the Adamson Act. Its explanation is found in what might be called the "Washington habit." Centralization during the war developed it rapidly, with the result that the employee went over the head of his superior officer and took the train for the Capitol upon the slightest pretext. Wages, working conditions, questions of discipline, all were settled in the Director-General's office. Moreover, standardization was made well-nigh complete, so that the same class of employees received the same pay irrespective of local conditions and differing costs of living. This meant a strengthening of the national unions, an increase in the prestige of their leaders, and the extension of unionism and collective bargaining among classes of employees and systems of railway in which it was before unknown.

In the legislation of this year, labor leaders wished to perpetuate the war agencies for the adjustment of disputes, the national bipartisan adjustment boards. Railway managers urged decentralization and the restoration of adjustment machinery on the individual road. The law left the matter in a somewhat vague and unsatisfactory condition. It was declared to be the duty of carriers and employees to exert every reasonable effort and adopt every available means to avoid interruption of operation, and disputes were to be considered and if possible decided in conference of those directly interested. Voluntary adjustment boards could be established by agreement between an individual carrier, a group of carriers, or the carriers as a whole, and the employees concerned, to which disputes involving working conditions, not settled by direct conference on the individual railway, could be sent. Appeal from these adjustment boards could be taken to the Railroad Labor Board, a body with national jurisdiction consisting of representatives of the employees, the railways, and the public. This Board had direct jurisdiction of any dispute over wages not adjusted locally. But it also could take original jurisdiction over disputes involving rules and working conditions in case the appropriate adjustment boards were not organized. It is only necessary therefore that the union leaders should decline to coöperate in the appointment of adjustment boards, and sooner or later the national board must take action. In fact, the national body has already called the attention of the two sides to this possible outcome. Meanwhile, because no adjustment machinery exists, the unions have succeeded in getting a multitude of petty cases of discipline before the national board, and are charged with doing this for the purpose of impressing the Board with the necessity of creating some national machinery to handle these disputes. They have followed this

up by an express request that national adjustment boards be established to take the place of the war boards which expire February 1, 1921; but the Railroad Labor Board has declined to act for lack of jurisdiction, holding that it has authority only over disputes. Brotherhood leaders have secured the continuance until after further hearings of all the national agreements of the United States Railroad Administration, which include such matters as the eight-hour day and the abolition of piece-work in the shops.

While on the surface the struggle appears to be a somewhat technical question of jurisdiction, it has far-reaching consequences. Railway executives insist that national adjustment means a breakdown of discipline, of *esprit de corps*, of direct contact between manager and men, resulting in reduced efficiency and safety in operation. It means the perpetuation of national standards without regard to local conditions. The more extreme among them maintain that this is a movement for the closed shop, and that the ultimate purpose is one national union in railway employment. It is evident that the denunciation of the "one big union" idea is but a part of the general campaign for the open shop which employers are now undertaking, and need not be taken seriously. Nevertheless one must recognize the avowed object of the brotherhood leaders to preserve standardization on a national scale, and to concentrate the machinery of adjustment in national bodies.

It is evidently the judgment of the labor leaders that they can accomplish more through bipartisan boards than through the tripartite arrangement in which the public is represented. I confess to a strong predilection in favor of a plan in which representatives of the two sides get together and settle their problems without the intervention of a third party. But I cannot make myself believe that, in issues so vital and far-reaching, there will not under such a plan at some time be collusion between them at the expense of the public. The duty placed upon the Commission to see to it that the railways receive a definite net earning seems to me to increase the danger of collusion.

But certainly if the tripartite plan of settlement is to prevail, the weakness present in earlier arbitration boards must be corrected. Men must be chosen to represent the public who have the capacity to gain a thorough understanding of the intricacies of railway wage schedules, and must be continued in service so that they may acquire the efficiency that comes only from experience.

The present board has no power to enforce its decisions beyond that of making violations thereof public. The Cummins Act, as originally drawn up, provided for the compulsory arbitration of labor controversies, and forbade employees to enter into a combination with the intent to hinder or prevent the operation of trains in interstate com-

merce. Fortunately it failed of passage. Everyone recognizes the necessity for uninterrupted transportation. The utter dependence of the public makes it impossible to confine the interference of the people to assuring the contestants a free field and fair play. There is no question but that both capital and labor should be required to accept service in this industry subject to a limitation upon their freedom of action in the settlement of their disputes. But it is quite a different thing suddenly to incorporate the principle of compulsory arbitration into law, and impose it upon a group of employees just emerging from the restrictions of government employment into which they were drafted for war purposes, a group long in service with many valuable seniority rights, and in large degree unfitted by age and service to seek an alternative employment. But the public should give warning in some unmistakable fashion that settlement of disputes in public service industries must be accomplished by peaceful means, and that labor must prepare itself for a speedy realization of this program. This involves the obligation on the part of the public to create a tribunal in which the administration of justice is assured. It involves the establishment by law of certain fundamental rights of labor, which might be called a labor code. A beginning has been made in the instructions laid down by Congress for the guidance of the Railroad Labor Board in the fixing of wages, considerations which the Board is required to take into account when determining the reasonableness of wages and working conditions. With the fundamental rights of labor assured, and with an informed and high-minded arbitration body in existence, there should be no more difficulty in adjusting labor disputes peaceably than there is in the settlement of ordinary cases at law. With such a tribunal, the argument of involuntary servitude, whatever slight plausibility it may have had before, falls to the ground.

In conclusion permit me to offer two general observations. First, private ownership under government regulation is again on trial. The one thing that will satisfy the people of the country is the complete recognition in deed as well as word that the railway is a public servant. This insistence pervades the recent legislation. Private interests are put one side for a larger and more imperative need. Private capital has little now to gain from pursuit of the methods of competitive business. Its earnings are limited, its range of activity restricted. This should give stimulus to a movement for a larger measure of coöperation among the railways, and the perpetuation of those advantages that developed under the unified control of the war period. There is much evidence that railway executives appreciate this change of status, and that they are prepared to subordinate the selfish interests of their own properties to the larger interests of the public as a whole. We are

attempting to take a middle ground between public ownership and unrestricted private operation, a position in which the public becomes a partner in the enterprise. Whether this final experiment will succeed will depend upon the cordiality with which public and carriers cooperate to achieve a common purpose.

Second, we have reached a stage in our policy of regulation where we may well pause and take account of stock. We have gone a long way and rapidly in the direction of inquisitorial supervision. To be sure, the government now has a large stake in the enterprise, having over a billion dollars of investment in railway property in the form of loans. Yet there is a point in the regulation process that represents a fair balance between the private agency that furnishes the capital and the management, and the public which asserts control over rates and service. If we insist upon carrying our paternalism and our discipline to the point where private capital will rebel, where private initiative will be deadened, where the net result of the association of private capital and government management will be a decline in the standard of service produced, we must either draw back or be prepared to accept the alternative, however disagreeable, and undertake the responsibility of public ownership and public operation.

THE RAILROAD SITUATION—DISCUSSION

C. O. Ruggles.—In the discussion of Professor Dixon's paper I wish to call attention especially to what he has called the altered relationship of the Interstate Commerce Commission to the service of transportation. And in this connection it is highly significant to point out that the Commission is responsible to the carriers for the net earnings and to the public for an efficient and sufficient transportation service.

There does not appear to be any doubt that we have reached a point where railroads will not be permitted to receive a rate of return on capital comparable to what it will be able to earn in competitive industry. Therefore if we are to take no backward step on this proposition, the only possible consistent program is to move forward and provide for a certain return to carriers. If we are to say to carriers when they are prosperous, as we did about 1906, that rates to the public ought to be reduced, we must be prepared to permit an increase in their rates when railroad revenue is inadequate. If an increase in rates, at such times, coincides in the business cycle with such depression in business that increased revenue will not be produced by advances in the rate schedule, then there is but one solution, and that is a payment to the carriers from a revolving fund administered by the government. Of course this assumes that the government might desire during periods of ample railway revenue to divert part of this revenue into such a fund to be used as a shock absorber during periods of business depression.

The weak link in having the Interstate Commerce Commission assume responsibility for a return to carriers is the danger of relieving railroad management of the responsibility of handling the properties economically.